

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JANELL RENAE POWERS
a.k.a. JANELL RENAE PEARSON
1565 Georgetown
Turlock, CA 95382

Registered Nurse License No. 681867

Respondent

Case No. 2012-598

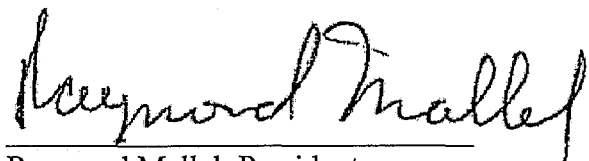
OAH No. 2012040550

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **April 5, 2013.**

IT IS SO ORDERED **March 6, 2013.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 BRIAN S. TURNER
Deputy Attorney General
4 State Bar No. 108991
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0603
Facsimile: (916) 327-8643
7 E-mail: Brian.Turner@doj.ca.gov
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 JANELL RENAE POWERS
a.k.a. JANELL RENAE PEARSON
13 1565 Georgetown
Turlock, CA 95382
14 Registered Nurse License No. 681867

Case No. 2012-598

OAH No. 2012040550

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15
16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
22 Registered Nursing (Board). She brought this action solely in her official capacity and is
23 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
24 Brian S. Turner, Deputy Attorney General.

25 2. Respondent Janell Renae Powers; aka Janell Renae Pearson (Respondent) is
26 represented in this proceeding by attorney Paul Chan, whose address is: 400 Capitol Mall, Suite
27 2545, Sacramento, CA 95814.

28 ///

3. On or about June 29, 2006, the Board issued Registered Nurse License No. 681867 to Janell Renae Powers; aka Janell Renae Pearson. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-598 and will expire on January 31, 2014, unless renewed.

JURISDICTION

4. Accusation No. 2012-598 was filed before the Board, Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 3, 2012. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 2012-598 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2012-598. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 2012-598.

1 10. Respondent agrees that her Registered Nurse License is subject to discipline and she
2 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

3 CONTINGENCY

4 11. This stipulation shall be subject to approval by the Board. Respondent understands
5 and agrees that counsel for Complainant and the staff of the Board may communicate directly
6 with the Board regarding this stipulation and settlement, without notice to or participation by
7 Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that
8 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board
9 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
10 the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
11 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
12 be disqualified from further action by having considered this matter.

13 12. The parties understand and agree that facsimile or emailed copies of this Stipulated
14 Settlement and Disciplinary Order, including facsimile or emailed signatures thereto, shall have
15 the same force and effect as the originals.

16 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
17 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
18 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
19 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
20 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
21 writing executed by an authorized representative of each of the parties.

22 14. In consideration of the foregoing admissions and stipulations, the parties agree that
23 the Board may, without further notice or formal proceeding, issue and enter the following
24 Disciplinary Order:

25 DISCIPLINARY ORDER

26 IT IS HEREBY ORDERED that Registered Nurse License No. 681867 issued to
27 Respondent Janell Renae Powers; aka Janell Renae Pearson is revoked. However, the revocation
28

1 is stayed and Respondent is placed on probation for three (3) years on the following terms and
2 conditions.

3 **Severability Clause.** Each condition of probation contained herein is a separate and
4 distinct condition. If any condition of this Order, or any application thereof, is declared
5 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
6 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
7 and enforceable to the fullest extent permitted by law.

8 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
9 detailed account of any and all violations of law shall be reported by Respondent to the Board in
10 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with
11 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
12 45 days of the effective date of the decision, unless previously submitted as part of the licensure
13 application process.

14 **Criminal Court Orders:** If Respondent is under criminal court orders, including
15 probation or parole, and the order is violated, this shall be deemed a violation of these probation
16 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

17 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with
18 the conditions of the Probation Program established by the Board and cooperate with
19 representatives of the Board in its monitoring and investigation of the Respondent's compliance
20 with the Board's Probation Program. Respondent shall inform the Board in writing within no
21 more than 15 days of any address change and shall at all times maintain an active, current license
22 status with the Board, including during any period of suspension.

23 Upon successful completion of probation, Respondent's license shall be fully restored.

24 3. **Report in Person.** Respondent, during the period of probation, shall appear in
25 person at interviews/meetings as directed by the Board or its designated representatives.

26 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
27 practice as a registered nurse outside of California shall not apply toward a reduction of this
28 probation time period. Respondent's probation is tolled, if and when she resides outside of

1 California. Respondent must provide written notice to the Board within 15 days of any change of
2 residency or practice outside the state, and within 30 days prior to re-establishing residency or
3 returning to practice in this state.

4 Respondent shall provide a list of all states and territories where she has ever been licensed
5 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
6 information regarding the status of each license and any changes in such license status during the
7 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
8 license during the term of probation.

9 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit
10 or cause to be submitted such written reports/declarations and verification of actions under
11 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
12 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
13 Respondent shall immediately execute all release of information forms as may be required by the
14 Board or its representatives.

15 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
16 state and territory in which she has a registered nurse license.

17 **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall
18 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
19 6 consecutive months or as determined by the Board.

20 For purposes of compliance with the section, "engage in the practice of registered nursing"
21 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
22 non-direct patient care position that requires licensure as a registered nurse.

23 The Board may require that advanced practice nurses engage in advanced practice nursing
24 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

25 If Respondent has not complied with this condition during the probationary term, and
26 Respondent has presented sufficient documentation of her good faith efforts to comply with this
27 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
28 extension of Respondent's probation period up to one year without further hearing in order to

1 comply with this condition. During the one year extension, all original conditions of probation
2 shall apply.

3 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
4 prior approval from the Board before commencing or continuing any employment, paid or
5 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
6 performance evaluations and other employment related reports as a registered nurse upon request
7 of the Board.

8 Respondent shall provide a copy of this Decision to her employer and immediate
9 supervisors prior to commencement of any nursing or other health care related employment.

10 In addition to the above, Respondent shall notify the Board in writing within seventy-two
11 (72) hours after she obtains any nursing or other health care related employment. Respondent
12 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
13 separated, regardless of cause, from any nursing, or other health care related employment with a
14 full explanation of the circumstances surrounding the termination or separation.

15 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
16 Respondent's level of supervision and/or collaboration before commencing or continuing any
17 employment as a registered nurse, or education and training that includes patient care.

18 Respondent shall practice only under the direct supervision of a registered nurse in good
19 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
20 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
21 approved.

22 Respondent's level of supervision and/or collaboration may include, but is not limited to the
23 following:

24 (a) Maximum - The individual providing supervision and/or collaboration is present in
25 the patient care area or in any other work setting at all times.

26 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
27 care unit or in any other work setting at least half the hours Respondent works.

28 (c) Minimum - The individual providing supervision and/or collaboration has person-to-

1 person communication with Respondent at least twice during each shift worked.

2 (d) Home Health Care - If Respondent is approved to work in the home health care
3 setting, the individual providing supervision and/or collaboration shall have person-to-person
4 communication with Respondent as required by the Board each work day. Respondent shall
5 maintain telephone or other telecommunication contact with the individual providing supervision
6 and/or collaboration as required by the Board during each work day. The individual providing
7 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
8 patients' homes visited by Respondent with or without Respondent present.

9 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
10 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
11 or for an in-house nursing pool.

12 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
13 registered nursing supervision and other protections for home visits have been approved by the
14 Board. Respondent shall not work in any other registered nursing occupation where home visits
15 are required.

16 Respondent shall not work in any health care setting as a supervisor of registered nurses.
17 The Board may additionally restrict Respondent from supervising licensed vocational nurses
18 and/or unlicensed assistive personnel on a case-by-case basis.

19 Respondent shall not work as a faculty member in an approved school of nursing or as an
20 instructor in a Board approved continuing education program.

21 Respondent shall work only on a regularly assigned, identified and predetermined
22 worksite(s) and shall not work in a float capacity.

23 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
24 request documentation to determine whether there should be restrictions on the hours of work.

25 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and
26 successfully complete a course(s) relevant to the practice of registered nursing no later than six
27 months prior to the end of her probationary term.

28 Respondent shall obtain prior approval from the Board before enrolling in the course(s).

1 Respondent shall submit to the Board the original transcripts or certificates of completion for the
2 above required course(s). The Board shall return the original documents to Respondent after
3 photocopying them for its records.

4 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
5 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
6 amount of \$7,500.00. Respondent shall be permitted to pay these costs in a payment plan
7 approved by the Board, with payments to be completed no later than three months prior to the end
8 of the probation term.

9 If Respondent has not complied with this condition during the probationary term, and
10 Respondent has presented sufficient documentation of her good faith efforts to comply with this
11 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
12 extension of Respondent's probation period up to one year without further hearing in order to
13 comply with this condition. During the one year extension, all original conditions of probation
14 will apply.

15 12. **Violation of Probation.** If Respondent violates the conditions of her probation, the
16 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
17 and impose the stayed discipline (revocation/suspension) of Respondent's license.

18 If during the period of probation, an accusation or petition to revoke probation has been
19 filed against Respondent's license or the Attorney General's Office has been requested to prepare
20 an accusation or petition to revoke probation against Respondent's license, the probationary
21 period shall automatically be extended and shall not expire until the accusation or petition has
22 been acted upon by the Board.

23 13. **License Surrender.** During Respondent's term of probation, if she ceases practicing
24 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
25 Respondent may surrender her license to the Board. The Board reserves the right to evaluate
26 Respondent's request and to exercise its discretion whether to grant the request, or to take any
27 other action deemed appropriate and reasonable under the circumstances, without further hearing.
28 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be

1 subject to the conditions of probation.

2 Surrender of Respondent's license shall be considered a disciplinary action and shall
3 become a part of Respondent's license history with the Board. A registered nurse whose license
4 has been surrendered may petition the Board for reinstatement no sooner than the following
5 minimum periods from the effective date of the disciplinary decision:

6 (1) Two years for reinstatement of a license that was surrendered for any reason other
7 than a mental or physical illness; or

8 (2) One year for a license surrendered for a mental or physical illness.

9 14. Within 45 days of the effective date of this decision, Respondent, at her expense,
10 shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the
11 Board before the assessment is performed, submit an assessment of the Respondent's physical
12 condition and capability to perform the duties of a registered nurse, including a determination as
13 set forth below in the condition titled "Rule-Out Substance Abuse Assessment." Such an
14 assessment shall be submitted in a format acceptable to the Board. If medically determined, a
15 recommended treatment program will be instituted and followed by the Respondent with the
16 physician, nurse practitioner, or physician assistant providing written reports to the Board on
17 forms provided by the Board.

18 If Respondent is determined to be unable to practice safely as a registered nurse, the
19 licensed physician, nurse practitioner, or physician assistant making this determination shall
20 immediately notify the Board and Respondent by telephone, and the Board shall request that the
21 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
22 immediately cease practice and shall not resume practice until notified by the Board. During this
23 period of suspension, Respondent shall not engage in any practice for which a license issued by
24 the Board is required until the Board has notified Respondent that a medical determination
25 permits Respondent to resume practice. This period of suspension will not apply to the reduction
26 of this probationary time period.

27 If Respondent fails to have the above assessment submitted to the Board within the 45-day
28 requirement, Respondent shall immediately cease practice and shall not resume practice until

1 notified by the Board. This period of suspension will not apply to the reduction of this
2 probationary time period. The Board may waive or postpone this suspension only if significant,
3 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
4 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
5 Only one such waiver or extension may be permitted.

6 **15. Mental Health Examination.** Respondent shall, within 45 days of the effective date
7 of this Decision, have a mental health examination including psychological testing as appropriate
8 to determine her capability to perform the duties of a registered nurse, including a determination
9 as set forth below in the condition titled "Rule-Out Substance Abuse Assessment." The
10 examination will be performed by a psychiatrist, psychologist or other licensed mental health
11 practitioner approved by the Board. The examining mental health practitioner will submit a
12 written report of that assessment and recommendations to the Board. All costs are the
13 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
14 result of the mental health examination will be instituted and followed by Respondent.

15 If Respondent is determined to be unable to practice safely as a registered nurse, the
16 licensed mental health care practitioner making this determination shall immediately notify the
17 Board and Respondent by telephone, and the Board shall request that the Attorney General's
18 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
19 practice and may not resume practice until notified by the Board. During this period of
20 suspension, Respondent shall not engage in any practice for which a license issued by the Board
21 is required, until the Board has notified Respondent that a mental health determination permits
22 Respondent to resume practice. This period of suspension will not apply to the reduction of this
23 probationary time period.

24 If Respondent fails to have the above assessment submitted to the Board within the 45-day
25 requirement, Respondent shall immediately cease practice and shall not resume practice until
26 notified by the Board. This period of suspension will not apply to the reduction of this
27 probationary time period. The Board may waive or postpone this suspension only if significant,
28 documented evidence of mitigation is provided. Such evidence must establish good faith efforts

1 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
2 Only one such waiver or extension may be permitted.

3 16. **Rule-Out Substance Abuse Assessment.** If the examiner conducting the physical
4 and/or mental health examination determines that the respondent is dependent upon drugs or
5 alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or alcohol
6 dependence in remission), that might reasonably affect the safe practice of nursing, then the
7 respondent must further comply with the following additional terms and conditions of probation:

8 A. **Participate in Treatment/Rehabilitation Program for Chemical**

9 **Dependence.** Respondent, at her expense, shall successfully complete during the
10 probationary period or shall have successfully completed prior to commencement
11 of probation a Board-approved treatment/rehabilitation program of at least six
12 months duration. As required, reports shall be submitted by the program on forms
13 provided by the Board. If Respondent has not completed a Board-approved
14 treatment/rehabilitation program prior to commencement of probation,
15 Respondent, within 45 days from the effective date of the decision, shall be
16 enrolled in a program. If a program is not successfully completed within the first
17 nine months of probation, the Board shall consider Respondent in violation of
18 probation.

19 Based on Board recommendation, each week Respondent shall be required
20 to attend at least one, but no more than five 12-step recovery meetings or
21 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse
22 support group as approved and directed by the Board. If a nurse support group is
23 not available, an additional 12-step meeting or equivalent shall be added.
24 Respondent shall submit dated and signed documentation confirming such
25 attendance to the Board during the entire period of probation. Respondent shall
26 continue with the recovery plan recommended by the treatment/rehabilitation
27 program or a licensed mental health examiner and/or other ongoing recovery
28 groups.

1 B. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
2 shall completely abstain from the possession, injection or consumption by any
3 route of all controlled substances and all psychotropic (mood altering) drugs,
4 including alcohol, except when the same are ordered by a health care professional
5 legally authorized to do so as part of documented medical treatment. Respondent
6 shall have sent to the Board, in writing and within fourteen (14) days, by the
7 prescribing health professional, a report identifying the medication, dosage, the
8 date the medication was prescribed, the Respondent's prognosis, the date the
9 medication will no longer be required, and the effect on the recovery plan, if
10 appropriate.

11 Respondent shall identify for the Board a single physician, nurse
12 practitioner or physician assistant who shall be aware of Respondent's history of
13 substance abuse and will coordinate and monitor any prescriptions for Respondent
14 for dangerous drugs, controlled substances or mood-altering drugs. The
15 coordinating physician, nurse practitioner, or physician assistant shall report to the
16 Board on a quarterly basis Respondent's compliance with this condition. If any
17 substances considered addictive have been prescribed, the report shall identify a
18 program for the time limited use of any such substances.

19 The Board may require the single coordinating physician, nurse
20 practitioner, or physician assistant to be a specialist in addictive medicine, or to
21 consult with a specialist in addictive medicine.

22 C. **Submit to Tests and Samples.** Respondent, at her expense, shall
23 participate in a random, biological fluid testing or a drug screening program which
24 the Board approves. The length of time and frequency will be subject to approval
25 by the Board. Respondent is responsible for keeping the Board informed of
26 Respondent's current telephone number at all times. Respondent shall also ensure
27 that messages may be left at the telephone number when she is not available and
28 ensure that reports are submitted directly by the testing agency to the Board, as

1 directed. Any confirmed positive finding shall be reported immediately to the
2 Board by the program and Respondent shall be considered in violation of
3 probation.

4 In addition, Respondent, at any time during the period of probation, shall
5 fully cooperate with the Board or any of its representatives, and shall, when
6 requested, submit to such tests and samples as the Board or its representatives may
7 require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
8 controlled substances.

9 If Respondent has a positive drug screen for any substance not legally
10 authorized and not reported to the coordinating physician, nurse practitioner, or
11 physician assistant, and the Board files a petition to revoke probation or an
12 accusation, the Board may suspend Respondent from practice pending the final
13 decision on the petition to revoke probation or the accusation. This period of
14 suspension will not apply to the reduction of this probationary time period.

15 If Respondent fails to participate in a random, biological fluid testing or
16 drug screening program within the specified time frame, Respondent shall
17 immediately cease practice and shall not resume practice until notified by the
18 Board. After taking into account documented evidence of mitigation, if the Board
19 files a petition to revoke probation or an accusation, the Board may suspend
20 Respondent from practice pending the final decision on the petition to revoke
21 probation or the accusation. This period of suspension will not apply to the
22 reduction of this probationary time period.

23 **D. Therapy or Counseling Program.** Respondent, at her expense, shall
24 participate in an on-going counseling program until such time as the Board
25 releases her from this requirement and only upon the recommendation of the
26 counselor. Written progress reports from the counselor will be required at various
27 intervals.


28 ///

1 ///

2 ACCEPTANCE

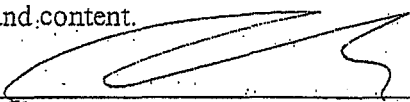
3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
4 discussed it with my attorney, Paul Chan. I understand the stipulation and the effect it will have
5 on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order
6 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
7 Board of Registered Nursing.

8
9 DATED: 11-25-12


10 JANELL RENAE POWERS; AKA JANELL RENAE
11 PEARSON
Respondent

12 I have read and fully discussed with Respondent Janell Renae Powers; aka Janell Renae
13 Pearson the terms and conditions and other matters contained in the above Stipulated Settlement
14 and Disciplinary Order. I approve its form and content.

15 DATED: 11-26-12


16 Paul Chan
Attorney for Respondent

17
18 ENDORSEMENT

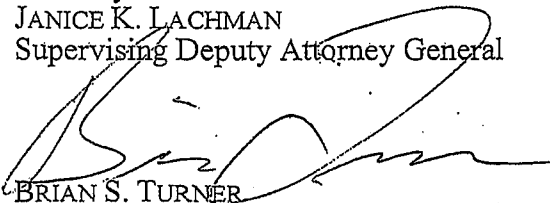
19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
21 Affairs.
22
23
24
25
26
27
28

Dated:

11/26/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General


BRIAN S. TURNER
Deputy Attorney General
Attorneys for Complainant

SA2011100266

Exhibit A

Accusation No. 2012-598

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 BRIAN S. TURNER
Deputy Attorney General
4 State Bar No. 108991
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0603
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-598

12 **JANELL RENAE POWERS**
13 **a.k.a. JANELL RENAE PEARSON**
1565 Georgetown
14 Turlock, CA 95382

ACCUSATION

15 **Registered Nurse License No. 681867**

16 Respondent.

17
18 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

19 **PARTIES**

- 20 1. Complainant brings this Accusation solely in her official capacity as Interim
21 Executive Officer of the Board of Registered Nursing ("Board").
- 22 2. On or about June 29, 2006, the Board issued Registered Nurse License Number
23 681867 to Janell Renae Powers, also known as Janell Renae Pearson ("Respondent"). The license
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 January 31, 2014, unless renewed.

26 ///

27 ///

28 ///

1 **JURISDICTION**

2 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
3 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
4 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
5 Practice Act.

6 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
7 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
8 to render a decision imposing discipline on the license. Under Code section 2811(b), the Board
9 may renew an expired license at any time within eight years after the expiration.

10 **STATUTORY PROVISIONS**

11 5. Code section 2761(a) states, in pertinent part, that the board may take disciplinary
12 action against a certified or licensed nurse or deny an application for a certificate or license for
13 unprofessional conduct.

14 6. Code section 2762 states, in pertinent part:

15 In addition to other acts constituting unprofessional conduct within the meaning
16 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
licensed under this chapter to do the following:

17 (a) Obtain or possess in violation of law, or prescribe, or except as directed by
18 a licensed physician and surgeon, dentist, or podiatrist administer to himself or
herself, or furnish or administer to another, any controlled substance as defined in
19 Division 10 (commencing with Section 11000) of the Health and Safety Code or any
dangerous drug or dangerous device as defined in Section 4022.

20 **COST RECOVERY**

21 7. Code section 125.3 provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

25 **DRUGS**

26 8. "Morphine" is a Schedule II controlled substance as designated by Health and Safety
27 Code section 11055(b)(1)(M).

28 ///

9. "Dilaudid," a brand of hydromorphone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(K).

FIRST CAUSE FOR DISCIPLINE

(Obtained and Possessed Controlled Substances)

10. Respondent is subject to discipline under Code section 2761(a), on the grounds of unprofessional conduct as defined in Code section 2762(a), in that between 2007 and 2008, while employed as a registered nurse at Doctors Medical Center, located in Modesto, California, Respondent did the following:

a. Respondent obtained Morphine and Dilaudid, controlled substances, by fraud, deceit, misrepresentation or subterfuge or by the concealment of a material fact in violation of Health and Safety Code section 11173(a) when, while on duty, Respondent signed out the medications for administration to various patients, administered the prescribed dose to the patient, then took the remaining/waste amount for personal use.

b. Respondent possessed Morphine and Dilaudid, controlled substances, in violation of Code section 4060, in that she did not have a prescription for those controlled substances.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 681867, issued to Janell Renae Powers, also known as Janell Renae Pearson;

2. Ordering Janell Renae Powers, also known as Janell Renae Pearson to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

///

///

///

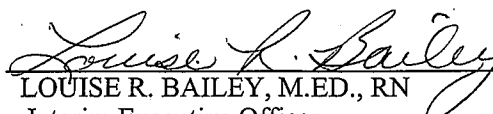
///.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Taking such other and further action as deemed necessary and proper.

DATED: April 03, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
State of California
Complainant

SA2011100266
10818213.doc